

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 18, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of January 18, 2006, was called to order by Mayor Hitchcock at 5:33 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Actual litigation: Government Code §54956.9(a); one case; City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco Superior Court, Case No. CGC-05-441976
- d) Actual Litigation: Government Code §54956.9(a); one case; Citizens for Open Government v. City of Lodi et al., San Joaquin County Superior Court, Case No. CV026002
- e) Actual Litigation: Government Code §54956.9(a); one case; Lodi First, a California non-profit unincorporated association v. City of Lodi Community, by and through the City Council et al., San Joaquin County Superior Court, Case No. CV025999

C-3 ADJOURN TO CLOSED SESSION

At 5:33 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:40 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:01 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a), (b), and (c), no reportable action was taken in closed session.

Item C-2 (d) was not discussed.

In regard to Item C-2 (e), Council voted unanimously not to appeal the decision of the San Joaquin County Superior Court regarding the adequacy of the California Environmental Quality Act (CEQA) document and, instead, will recirculate the CEQA document to resolve the issues that the court had delineated.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of January 18, 2006, was called to order by Mayor Hitchcock at 7:01 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Mark Price, St. Paul's Lutheran Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Following introductory comments by Deputy City Manager Krueger, Mayor Hitchcock presented a Certificate of Appreciation to Maxine Cadwallader, Revenue Manager, who was retiring after nearly 50 years of service to the City of Lodi.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Mounce, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$6,314,616.60.

E-2 The minutes of November 16, 2005 (Regular Meeting), December 27, 2005 (Shirtsleeve Session), and January 3, 2006 (Shirtsleeve Session) were approved as written.

E-3 "Receive quarterly report of purchases between \$5,000 and \$20,000" was ***pulled from the agenda pursuant to staff's request.***

E-4 Received report of the sale of scrap metal in the amount of \$3,887.81.

E-5 Received report of the sale of surplus equipment in the amount of \$6,154.

E-6 Accepted the improvements under "Lighted Crosswalk/Flashing Beacon Project on Elm Street at Loma Drive and at Mills Avenue and on Mills Avenue at Various Locations" contract.

E-7 Adopted Resolution No. 2006-12 accepting the development improvements at Lakeshore Properties, Tract No. 3515.

E-8 Adopted Resolution No. 2006-13 approving the final map and improvement agreement for Winchester Woods, Tract No. 3564.

E-9 Adopted Resolution No. 2006-14 authorizing the City Manager to amend the 2005-06 Transportation Development Act claim, allocate an additional \$180,000, and increase the Local Transportation Fund Article 8 Capital funding to \$695,878 and the total claim to \$2,937,121.

E-10 Adopted Resolution No. 2006-15 authorizing the City Manager to negotiate and purchase three Type 2 Medium Bus (Dial-A-Ride) transit vehicles off of the State contract, authorizing conversion of the three vehicles to compressed natural gas, and appropriating funds in the amount of \$295,000.

E-11 Approved Parks and Recreation staff recommendations on projects to be funded under the 2000 Park Bond Act Per Capita Grant program and allocated \$524,999 for the projects.

- E-12 Authorized the City Manager to submit grant application(s) for PCE/TCE clean up.
- E-13 "Adopt resolution amending the existing Lodi Energy Efficient Home Improvement Rebate Program, removing windows as an eligible rebate element and adding wall insulation as an eligible rebate element" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-14 Adopted Resolution No. 2006-16 authorizing the City Manager to allocate a Public Benefits Program rebate to Myers & Eby Property Management for a demand-side management project in the amount of \$9,004.50.
-

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-13 "Adopt resolution amending the existing Lodi Energy Efficient Home Improvement Rebate Program, removing windows as an eligible rebate element and adding wall insulation as an eligible rebate element"

At the request of Mayor Pro Tempore Johnson, Electric Utility Customer Services and Programs Manager, Rob Lechner, reported that 13 cities participated in a measurement verification study, in which all rebate programs were assessed. It was determined that windows were not an effective energy efficiency tool. Energy savings derived from dual paned windows over the course of a year amounted to only 8 kilowatt hours. Staff's recommendation is to remove windows as an eligible rebate element and add wall insulation in its place. Mr. Lechner noted that the Utility is still offering rebates for window tinting and shade screens.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Mounce second, unanimously adopted Resolution No. 2006-17 amending the existing Lodi Energy Efficient Home Improvement Rebate Program, removing windows as an eligible rebate element and adding wall insulation as an eligible rebate element.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen reported that he recently met with a representative of the San Joaquin County Transit District and learned that it has expanded the Hopper bus service by adding more stops, including Stockton, medical complexes, Delta College, and will take passengers to a bus stop where transfers can be made to other locations.
- Mayor Pro Tempore Johnson commented that it is a standard practice of the Lodi Unified School District Board of Trustees to place a list of all checks written by the District on a table for public inspection during its meetings. He suggested that the City institute a similar practice and asked that the matter be placed on a future agenda for discussion. He reported that at last night's Greenbelt Task Force meeting it was expected that the property owners were going to give a presentation on their proposal; however, they did not and were unable to specify when they would do so. He recalled that at the January 4 City Council meeting it was approved to proceed with a Request for Proposal (RFP) process to gather economic data for the Greenbelt Task Force. He asked that the matter be placed on the next agenda for reconsideration.
- In response to Mr. Johnson, Mayor Hitchcock stated that the Greenbelt Task Force will need the economic data regardless of the pending property owners' proposal. The information derived from the RFP will also be needed in order to include the greenbelt in the General Plan update.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King mentioned that he was familiar with the concept of a register of claims and had worked for municipalities that made the information available to the public.

I. PUBLIC HEARINGS

None.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Hansen, Beckman second, unanimously directed the City Clerk to post for the following expiring terms:

Lodi Improvement Committee

Bertha Castro	Term to expire March 1, 2006
Fran Forkas	Term to expire March 1, 2006
Eileen St. Yves	Term to expire March 1, 2006

J-3 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through December 31, 2005.

K. REGULAR CALENDAR

K-1 “Adopt resolution approving the Market Cost Adjustment (MCA) level for customers receiving Medical Rider discounts, review and provide preliminary and non-binding policy direction regarding electric rate design/structure for future adjustments to base rates by transferring rates from MCA charges to Base Rate charges, and set public hearing for February 1, 2006, to review permanent rate structure”

Interim Electric Utility Director Dockham explained that the Medical Rider program entitles people dependent upon life support devices to an additional 500 kilowatt hours of electricity at the lowest first-tier electric rate under the City's current base structure. There are 354 accounts that receive the Medical Rider discount. Staff had informed Council at its January 4 meeting that the discount was 8% from the standard rate and cost \$44,000 annually. It was later determined that the discount was 34% at the average consumption level because these customers had not been charged the market cost adjustment (MCA) that was in place for all other customers. If the Medical Rider program is changed to a 25% discount, the annual cost would be \$110,000. Mr. Dockham reviewed “blue sheets” (filed) on this topic.

Council Member Mounce felt that customers who use machinery to sustain their lives do not have the option to conserve electricity and, therefore, should not be penalized for higher use. She reminded listeners about the Fixed Income program, for which a 5% discount is applied, noting that only 98 customers now receive it and stated that the program should be better advertised.

Mr. Dockham recommended that, as part of a recertification process in the future, audits be done to determine how much of the Medical Rider customers' consumption is actually allocable to life support devices as opposed to other lifestyle choices.

Council Members Beckman and Hansen expressed support for a 25% Medical Rider discount.

PUBLIC COMMENTS:

- Ann Cerney asked Council to keep in mind that the poorest segment of the population has received no cost of living increase in their income.

In answer to questions posed by Ms. Cerney, Mr. Dockham reported that customers receiving the combined Low Income and Medical Rider discounts receive a 35% discount off the standard rate. The Low Income discount is 30% and, if approved tonight, the Medical Rider discount will be 25%.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2006-18 approving the MCA level for customers receiving Medical Rider discounts, which would effectuate a 25% discount from the standard residential rate, and authorized the Finance Director to adjust any bills issued to customers receiving the Medical Rider discount to reflect this decision.

Mr. Dockham commented that, as part of the “true up” presentation at a later date, staff will bring forward an income threshold comparison that various cities use to qualify for discount programs. Mr. Dockham reported that Lodi has 600 customers receiving the All Electric Home discount of 10% in the summer and 20% in the winter. He explained that this program is a vestige from the past when large monopolies were operating the State’s electricity grid and had significant amounts of surplus capacity in place. That paradigm has reversed under today’s model. He recommended that the All Electric Home discount program be eliminated.

In reply to Mayor Pro Tempore Johnson, Mr. Dockham acknowledged that staff needs to work with mobile home park owners to better understand the current situation and tailor a program that is beneficial for both the City and mobile home owners.

“**STRAW VOTE**” MOTION #2 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, took a “straw vote” to eliminate the All Electric Home rate. The “straw vote” carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Mounce

Absent: Council Members – None

Mr. Dockham reported that in the commercial discount program there is a 30% discount offered to non-profit 501(c)(3) organizations. Currently, there are seven customers in the G-1 class and five in the G-2 class that are receiving this discount. He asked Council to take a “straw vote” on whether to retain, increase, reduce, or eliminate the program.

“**STRAW VOTE**” MOTION #3 / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, took a “straw vote” to retain the existing G1 and G2 Community Benefits Incentive Discount with approximately the same level of discount applied to each program. The “straw vote” carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – Beckman

Absent: Council Members – None

MOTION #4 / VOTE:

The City Council, on motion of Mayor Hitchcock, Beckman second, unanimously set a public hearing for February 15, 2006, to establish a permanent rate structure.

- K-2 "Receive report on risk management policies and adopt resolution approving policy entitled, '*City of Lodi Energy Risk Management Policies*'"

City Manager King explained that the proposed risk management plan will guide policy decisions and principles used to purchase bulk power. The proposed City of Lodi Energy Risk Management Policies document includes a risk oversight committee comprised of the City Manager, Deputy City Manager, Electric Utility Director, and City Attorney. Previously, the decision to purchase power was made exclusively by the Electric Utility Department. Also included in the proposed document is a requirement that, whenever practical, decisions to buy power are brought before Council for approval. The risk management plan will be reviewed annually and the risk management committee will report quarterly to Council on the activities of the committee. The policy states that the City will not engage in speculation with regard to power purchases, i.e. that it will not buy more power than what the City's needs are in the hope that it could sell it later at a better price. Mr. King reported that it has been identified in the Calpine deal that the City appeared to buy power beyond its capacity to use. The policy also states that the City will not place at risk any more money than it can afford to lose.

Interim Electric Utility Director Dockham explained that individuals at the Northern California Power Agency (NCPA) have bounds on individual deals they can sign. The general manager of NCPA can do transactions on behalf of the power pool (of which Lodi is a member) up to \$40 million or at any level provided the member has authorization from its City Council. Mr. Dockham stated that that is the mechanism expected to be put in place in Lodi. Council would approve the City Manager and Electric Utility Director to make a purchase at a certain level and that would be communicated to NCPA for implementation. Over the next few months, the risk oversight committee will meet and review the policies and within six months will report back to Council on how it is working.

Mayor Hitchcock suggested that, because of its complexity, the *City of Lodi Energy Risk Management Policies* be reviewed in-depth at a Shirtsleeve Session.

Council Member Mounce and Mayor Pro Tempore Johnson felt that the newly hired Electric Utility Director should have an opportunity to review the document and provide input before Council votes on its approval.

In reply to Mayor Pro Tempore Johnson, Mr. Dockham explained that all of the other comparison cities have set themselves up to do transactions directly with marketers or other merchants in the power business. They can direct NCPA to enter into transactions on their behalf or they can enter into transactions directly. Lodi Electric Utility is not set up yet to enter into transactions directly on its own behalf. By default, all the transactions have to be done through NCPA.

MOTION:

Council Member Beckman made a motion, Hansen second, to adopt Resolution No. 2006-19 approving the policy entitled, "*City of Lodi Energy Risk Management Policies*."

PUBLIC COMMENTS:

- Ann Cerney asked what necessitated the Energy Risk Management Policies, as it was her understanding that only during the past six months did Electric Utility encounter difficulties and previous to that time, the Utility had a surplus. She pointed out that if the surplus had been retained, the Utility would have been able to weather rising costs without raising rates. She felt that any surplus should either be placed in reserve or returned to ratepayers.

Deputy City Manager Krueger reported that the Electric Utility has experienced financial difficulties for the past two years. Council approved a transfer from the rate stabilization fund of \$4.5 million in fiscal year 2004-05. If that had not taken place, there would have been a reduction in the cash balance. There was a declining working capital position over the past five years. There was a use of debt proceeds for projects that, in some cases, were "questionable" as related to a return on investments. In fiscal year 2005-06, there was a change in policy related to the "payment in lieu of taxes" to go from a percentage of revenues to a fixed dollar amount to be adjusted each year based upon the conditions that exist at the time.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Mounce, and Mayor Hitchcock

Noes: Council Members – Johnson

Absent: Council Members – None

- K-3 "Adopt resolution authorizing the City Manager and Electric Utility Director to procure energy requirements through fiscal year 2007 at an amount not to exceed \$39.8 million"

Interim Electric Utility Director Dockham reported that the Electric Utility has an open position in 2007 and needs to procure sufficient energy supplies to meet between 42% and 94% of its obligation to serve its customers. Reducing the open position will reduce Lodi's exposure to price risk. The energy risk management policy established the rules for procurement, but did not establish how electricity is purchased. He recommended that the City Manager and Electric Utility Director be allowed to procure the entire net short position. In July 2006, there are 11,000 megawatt hours that need to be procured. It is an average of 27 megawatts over all of the high-load hours. Initially, the recommendation would be that the procurement be 80% to 90% of what is needed for the third quarter and 65% to 75% in the fourth quarter. Mr. Dockham suggested that automatic triggers be put in place, e.g. if energy prices were to increase or decrease by 10% over the prices at which were transacted over the subsequent two weeks, that the Northern California Power Agency (NCPA) would be authorized to buy additional amounts. He also recommended that the City Manager and Electric Utility Director be allowed to replace energy in the event the Utility had a failure of any one of its own resources or a contract that defaulted. He stated that the risk oversight committee should meet and refine this "laddering" strategy because there will be a need to fill out the balance of 2007 and beyond. He recommended that Council approve the proposed resolution, which he noted, included a section stating: *"City Council hereby rescinds any previous procurement authorization granted to the City Manager and/or Electric Utility Director, including but not limited to Resolution 2001-246, and replaces those authorizations with the authority granted under this Resolution."*

Council Member Hansen mentioned that Mr. Dockham had informed him he had discussed this matter with the Electric Utility Director (*who will begin employment on January 23*) and he was in support of the resolution.

PUBLIC COMMENTS:

- Pat Patrick, President of the Chamber of Commerce, recalled that the last electricity purchase the City made was high priced and large in quantity. Assuming the price is lower now, it should be an advantage to the cost of service. He pointed out that the emphasis is on reduced exposure to price risk and asked whether this will be the motivation long term or would the Electric Utility be more speculative (in an effort to keep rates down) if it had larger reserves.

Mr. Dockham forecasted the current price of the needed electricity to be \$25 million. In answer to Mr. Patrick, he stated that Lodi's solution to addressing its long-term cost structure would be associated with long-term projects; however, this does not address

the immediate problem. As long as there is an open position, the Utility is subject to the whims of the market and that is what rating agencies consider. The Utility has \$3 million that it expects to finish the year with in savings. If the power budget increases over \$3 million, the Utility will have exhausted all of its savings and will need to increase rates. Mr. Dockham estimated that it would take three to five years to start building the Electric Utility's reserves.

- Ann Cerney suggested that Council determine now that if the cost of electricity actually turns out to be \$25 million, rather than \$39.8 million as requested, that the savings be placed in the Utility's reserve account or rates reduced accordingly.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2006-20 authorizing the City Manager and Electric Utility Director to procure energy requirements through fiscal year 2007 at an amount not to exceed \$39.8 million.

RECESS

At 9:33 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:45 p.m.

Mayor Hitchcock announced that Items K-5, K-7, K-8, and K-9 would be heard at the next regularly scheduled meeting.

K. REGULAR CALENDAR (Continued)

- K-4 "Consider resolution authorizing the City Manager to enter into: 1) a Blue Shield/Reynolds Ranch Annexation Application Reimbursement Agreement and 2) a contract with Willdan to provide engineering/planning support services for a General Plan Amendment, Pre-Zoning, Master Plan/Development Plan, Annexation, and Environmental Impact Report for an approximate 220-acre area up to a half mile south of Harney Lane between State Route 99 and the Union Pacific Railroad for a 20-acre Blue Shield office, an approximate 41-acre regional/community shopping center, and approximately 142 acres of residential uses at a variety of densities and types with a potential 10-acre school site, 29 acres of open space, and a 1-acre fire station"

Community Development Director Hatch explained that the item under consideration is for Council to authorize the City Manager to enter into two agreements that will allow the Blue Shield/Reynolds Ranch proposal to be evaluated. The reimbursement agreement assures that the applicant pays for the full cost of processing and evaluating the proposed project. Costs to be paid for by the applicant include Willdan's fees for engineering and planning support services, all City application fees, Local Agency Formation Commission (LAFCO) fees, City staff time, and the cost of required notices, postings, maps, etc. He emphasized that the matter for Council to consider tonight is whether or not to have the developer pay for the processing of the project, *not* for approval of the project. The subject area is one half mile south of Harney Lane between the Union Pacific Railroad on the west and Highway 99 on the east. The area is within Lodi's General Plan and is designated as Planned Residential Reserve. According to the General Plan, the area is "*well suited for residential development, but not expected to develop within the timeframe of the General Plan in 2007.*" Mr. Hatch stated that Council has the ability to consider the area prior to 2007, and from a planning point of view, the time would be appropriate now because it takes a considerable amount of time to analyze a project and review its impacts. The area is within the LAFCO approved sphere of influence for Lodi, which is a necessary precondition to any type of annexation or development. Steps that will need to be accomplished include a General Plan amendment, pre-zoning, Master Plan for the entire 220-acre area covering

general land uses and basic infrastructure planning for roads, sewer, water, drainage, utilities, etc., a Development Plan for the office, retail, and fire station portion of the proposal, annexation of the 220-acre site, and an Environmental Impact Report (EIR). Mr. Hatch reported that the non-residential portion of the project includes 20 acres for office space and 41 acres for a shopping center.

In response to Council Member Beckman, Mr. Hatch stated that the result of denying this request would be that the City would not hire a consultant to assist staff in providing additional expertise in the preparation of the Master Plan and environmental documents and, instead, this work would be done by City staff. Given staff's current workload, it would take considerably longer than the proposed schedule in the staff report. In addition, it would mean the cost to the citizenry of City staff to process the application would not be reimbursed, nor would the cost of outside experts to assist in preparation of environmental documents. He estimated the cost to the City would be \$100,000 to \$200,000. He noted that because the area is within the City's General Plan it must be accepted and processed. He confirmed that no approval of the project, tentative, final, or otherwise, would be included in Council's action tonight. The application process and EIR will provide Council with information to make a decision at a later time about whether the project is appropriate.

Mayor Hitchcock recalled that the area was put in the General Plan to determine how to place utilities, roads, etc. for future development, not for development prior to an updated General Plan.

In answer to questions posed by Council, Mr. Hatch reported that, in his judgment, there was no possibility that a dwelling could be occupied before 2007 in any area south of Harney Lane. He commented that the General Plan map shows no industrial reserve because it has all been annexed. He confirmed that if the proposed General Plan amendment was approved it could be changed later if the subsequent General Plan update recommended something different.

City Manager King added that changes can be made up to the time the developer obtains vested rights. A General Plan can be amended up to four times a year.

PUBLIC COMMENTS:

- Dale Gillespie of San Joaquin Valley Land Company stated that the document has a total life of 45 days. Within 30 days, Blue Shield must notify the City and the developer whether or not it intends to move forward on the project.
- At the request of Mayor Hitchcock, Blue Shield Director of Real Estate, Gig Codiga, reported that there are currently 500 employees at the Lodi facility. If the project proceeded, it is expected that the number of employees would increase to 800 in the first year Blue Shield occupied the new facility, and by 2010, it is projected that there could be 1,100 employees. If the proposed facility was expanded by 40,000 square feet, the number of employees could grow to 1,500. Mr. Codiga believed that approximately 40% of the current Blue Shield employees lived in the Lodi area. He reported that no other options exist in Lodi to relocate the Blue Shield facility. A site on Arch Road in Stockton is also being considered.

In reply to Mayor Pro Tempore Johnson, City Attorney Schwabauer explained that the only obligation that Blue Shield has under the agreement is to notify the City of its decision within 30 days. The developer would be free to reconfigure a project without Blue Shield and submit a new application for development.

City Manager King noted that Blue Shield was the driving factor in the proposal. If Blue Shield chooses not to select Lodi, then it is staff's assumption that this application would be withdrawn. Staff estimates the total cost of processing this application through completion (with no guarantee of project approval) is nearly \$500,000.

- Michael Locke President of the San Joaquin Partnership encouraged Council to favorably consider staff's recommendation to proceed with the process. The Partnership believes that Blue Shield is an important corporate client to keep within San Joaquin County.

In response to questions posed by Council Member Hansen, Mr. Locke explained that there is a direct impact by expenditures to vendors who supply services to the business and an induced impact by employees spending disposable income in a community.

- Jose Alva, attorney representing San Joaquin Valley Land Company, reviewed the purpose and processes involved in city general plans. He stated that the proposal will give Council an opportunity, without cost, to make an educated decision as to whether or not it wants to proceed with the project. He pointed out that the two biggest risk takers are the applicant and Blue Shield.
- Ann Cerney felt the proposal was premature and she was opposed to the project, as it was contrary to the concept of having open space between Stockton and Lodi. She saw jobs as the "hook" to this project and encouraged Council to take more time to consider it.
- Linda Huffman stated that it is inevitable that Lodi will grow and she asked Council to approve this request as an investment in the City's future. She did not believe the project would interfere with the greenbelt concept. Ms. Huffman stated that she has been employed at Blue Shield for 22 years.
- Dennis Silver stated that the majority of Lodi citizens want a significant greenbelt. He felt that the General Plan should be updated before proceeding with a large development south of Harney Lane. He suggested that the industrial area would be more appropriate. He asked what the price of the land was to Blue Shield that the developer arranged in order to get the housing portion of the plan in the project.

City Manager King reviewed the various sites in Lodi that were previously considered by Blue Shield; however, none were deemed feasible. In answer to Mr. Silver's question, Mr. King stated that the developer is offering Blue Shield a price below market rate for the land. He acknowledged that there is more profit in housing than the sale to Blue Shield.

Council Member Hansen noted that Council has already authorized development of infrastructure south of Harney Lane, such as a sewer lift station. He read statements from the General Plan that showed the proposed project was consistent with it. He did not believe this project would negate the greenbelt.

Council Member Beckman stated that private property owners should be able to do whatever they want with their land unless government can prove that they are going to harm someone by the use. It is not government's role to dictate to Blue Shield where to buy property. He reiterated that the City has an obligation to process the application and if the reimbursement agreement is not approved, the City must bear the cost of \$100,000 or more. He believed to allow that to happen would be gross negligence by the Council.

Mayor Pro Tempore Johnson supported the proposal and the possible opportunity to increase the number of jobs in Lodi.

Council Member Mounce did not believe the project was consistent with the current General Plan and preferred that it be updated before any steps are taken in this process. Ms. Mounce reported that she received calls from property owners in the area who were opposed to the project. Ms. Mounce explained that she would vote against the proposal because she did not have enough information from Blue Shield to make a decision and because Blue Shield will not commit to Lodi at this time.

Mayor Hitchcock stated that there are many portions of the General Plan which would indicate this project is not consistent with it. She mentioned that, legally, if even one inconsistency is found a court case could be made against it. She pointed out that the City is nearly ready to update its General Plan and create a vision for the community for the next 20 to 30 years, yet this project is baping out ahead of that process. She was adamantly opposed to the idea of having a huge office structure and parking lot next to a greenbelt area. In response to Mr. Beckman's comments, Ms. Hitchcock stated that the law gives cities the right to plan and determine what the best use of land is for different uses. She pointed out that 1,500 homes are planned to the west and this project brings in 1,500 more. Ms. Hitchcock stated that she would vote against the matter because she did not hear any compelling advantages to Lodi from the applicant about this project.

Mr. King reported that the agreement requires the developer to deposit \$60,000 with the City. The City will then review the application and release the Notice of Preparation. It is staff's intention to conduct an EIR. Willdan would begin engineering and site work. If within 30 days Blue Shield commits to the Lodi site, then the process would continue. The agreement calls for an "evergreen" amount of \$20,000 to be retained by the City. Beyond the processing of the application, there is no further commitment by the City Council. At a future date, Council will have an opportunity at a quasi-judicial hearing to consider the merits of the project.

MOTION:

Mayor Pro Tempore Johnson made a motion, Beckman second, to adopt Resolution No. 2006-21 authorizing the City Manager to enter into: 1) a Blue Shield/Reynolds Ranch Annexation Application Reimbursement Agreement and 2) a contract with Willdan to provide engineering/planning support services for a General Plan Amendment, Pre-Zoning, Master Plan/Development Plan, Annexation, and Environmental Impact Report for an approximate 220-acre area up to a half mile south of Harney Lane between State Route 99 and the Union Pacific Railroad for a 20-acre Blue Shield office, an approximate 41-acre regional/community shopping center, and approximately 142 acres of residential uses at a variety of densities and types with a potential 10-acre school site, 29 acres of open space, and a 1-acre fire station.

DISCUSSION:

Council Member Hansen emphasized the importance of jobs to citizens and the community.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Johnson

Noes: Council Members – Mounce and Mayor Hitchcock

Absent: Council Members – None

RECESS

At 11:58 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 12:05 a.m.

K. REGULAR CALENDAR (Continued)

- K-5 "Introduce ordinance amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places, by adding Chapter 12.03, "Sidewalks," to place liability on the adjoining property owner as permitted under state law" was **pulled from the agenda**.

- K-6 "Introduce ordinance amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places, by adding Article VI, "Waterfowl and Migratory Birds," to prohibit the feeding of any waterfowl or migratory birds in any public park or on any public lake"

Deputy City Attorney Magdich reported that the number of Canada geese at Lodi Lake range from 130 to 150 and this has contributed to high levels of fecal chloroform bacteria in the water. The result has been closure of the Lake on numerous occasions. Parks and Recreation staff has contacted the United States Fish and Wildlife Service Non-Migratory Bird Division. She stated that the simplest way to solve this problem is to prohibit feeding of the birds. She noted that feeding bread to the birds results in malnutrition, causes disruption in migratory patterns, and leads to bird diseases. Violation of the proposed ordinance would be an infraction. The fine for the first offense would not exceed \$100, the fine for a second offense within a 12-month period would not exceed \$200, and a third violation within one year could be up to \$500. She noted that these would be court imposed fines.

PUBLIC COMMENTS:

- Jay Bell stated that regular feeding by the public brings an ever increasing number of birds. Without supplemental feeding, the Lake would only support a certain number of birds. The large number of geese and ducks are making some areas unusable. Solutions to decrease the population of birds include the use of dogs to scare them away on a regular basis and prohibiting people from feeding them. He supported the proposed ordinance and suggested that warnings be given to people before citations are issued. He also suggested that people not be allowed to enter the park with ducks and geese they intend to drop off.
- Yvonne Bedsworth stated that she has lived in Lodi for four years and visits Lodi Lake nearly every day. She raised ducks and geese in Michigan for 20 years. Ms. Bedsworth explained that Canadian Honkers do not eat bread and are afraid of humans. She stated that these geese are at the Lake now because it is empty and they are eating barley from the Lake bottom. Many of the ducks and geese at the Lake are domesticated birds that have been abandoned by people and cannot fly away to find food elsewhere. She pointed out that the City itself brought barley and corn to the Lake for many years to feed the birds. She felt it was inhumane to prohibit feeding of the ducks and geese, as they would get sick and die, particularly during the winter months when there is little other vegetation. She reported that she found a goose last week that had been killed by someone who sliced it four times down the chest. Ms. Bedsworth has witnessed drug use by youths in the park.

Parks and Recreation Director Goehring acknowledged that the City had been feeding the geese and ducks for many years; however, the practice was discontinued approximately five years ago. Staff's attempts to solve the overpopulation of the birds and keep them out of the beach area have been unsuccessful.

Mayor Hitchcock suggested that the groundskeeper have a border collie at the Lake to scare the birds away.

Steve Dutra, Parks Superintendent, reported that he received a number of communications from people who are opposed to the ordinance. He confirmed that the use of trained border collies has been successful in other communities with this problem.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously introduced Ordinance 1769 amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places, by adding Article VI, "Waterfowl and Migratory Birds," to prohibit the feeding of any waterfowl or migratory birds in any public park or on any public lake, and further directed staff to provide a report to Council in six months regarding its impact.

- K-7 "Adopt resolution establishing and adjusting rental fees for Parks and Recreation facilities" was ***pulled from the agenda.***
- K-8 "Adopt resolution establishing and adjusting rental fees for Hutchins Street Square" was ***pulled from the agenda.***
- K-9 "Adopt resolution approving amendment to San Joaquin Council of Governments Joint Powers Agreement to add two additional voting members to the Board, one each from the San Joaquin County Board of Supervisors and the City of Stockton" was ***pulled from the agenda.***
- K-10 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$94,880.75) and approve Special Allocation covering general litigation matter expenses (\$2,324.93)"

City Attorney Schwabauer reviewed invoices as outlined in the staff report for this item (filed).

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$94,880.75 and approved Special Allocation covering general litigation matter expenses in the amount of \$2,324.93, as detailed below:

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total
<u>Amount</u>				
8001	92141	11/30/05	General Advice/Environmental Matters	\$ 781.81
8002	92193	11/30/05	People v M&P Investments	12,541.80
				(407.50)
8003	92192	11/30/05	Hartford Insurance Coverage Litigation	23,602.37
				(440.00)
8005	92194	11/30/05	Unigard Insurance	1,266.50
8008	92190	11/30/05	Envision Law Group	<u>51,655.84</u>
				<u>\$89,000.82</u>

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total
<u>Amount</u>				
		11/30/05	Peter Krasnoff, Expert Witness	<u>\$ 3,555.00</u>
				<u>\$ 3,555.00</u>

Kronick Moskowitz Tiedemann & Girard - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount	<u>Distribution</u>
11233.026	223120	12/25/05	Lodi First v. City of Lodi	\$ 861.93	\$ 861.93
11233.027	223120	12/25/05	Citizens for Open Govt. v COL	<u>1,463.00</u>	<u>1,463.00</u>
				<u>\$ 2,324.93</u>	<u>\$ 2,324.93</u>

L. ORDINANCES

None.

Continued January 18, 2006

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:48 a.m., Thursday, January 19, 2006 in memory of Naomi Carey who passed away on January 9 and Walter Rice who passed away on January 13.

ATTEST:

Susan J. Blackston
City Clerk